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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/660,093	09/12/2000	Mehmet Oguz Sunray	2100.002900/SUNAY2	7323

23720 7590 05/09/2011
WILLIAMS, MORGAN & AMERSON
10333 RICHMOND, SUITE 1100
HOUSTON, TX 77042

EXAMINER

PHUNKULH, BOB A

ART UNIT	PAPER NUMBER
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2477

MAIL DATE	DELIVERY MODE
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05/09/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/660,093	Applicant(s) SUNRAY, MEHMET OGUZ	
	Examiner BOB A. PHUNKULH	Art Unit 2477	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 8-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 8-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This communication is in response to applicant's 02/28/2011 amendment(s)/response(s) in the application of **SUNRAY** for "**CODE SPACE SHARING AMONG MULTIPLE MODES OF OPERATION**" filed 09/12/2000. The amendment/response to the claims have been entered. Claim 15 has been canceled. No claims have been added. Claims 1-5, 8-12, are now pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over **KIM** et al. (US 6,937,559), hereinafter **KIM**, in view of **PFEIL** et al. (US 6,252,867 B1), hereinafter **PFEIL**.

Regarding claims 1 and 8, **KIM** discloses a method for partitioning code space (Walsh Code set) in a communication system, comprising the step of:

dividing a code space into at least two subspaces (Walsh code set comprise of a plurality of codes, see col. 2 lines 31-42), where codes in the first subspace are assigned to at least one user at a time for a voice communication session and where the codes in the second subspace are assigned to one user for data communication (the Walsh codes may be assigned to a plurality of users according to data types i.e.

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priority, where the high priority data packet call is for voice and low priority call for data call, see col. 6 lines 13-42).

KIM fails to disclose allocating codes to each of a plurality of users on a timeshare basis for data communication.

PFEIL, on the other hand, discloses multicarrier CDMA systems employ a plurality of carriers for which each carrier may contain a number, such as 64, remote units wherein each remote unit is assigned one of 64 Walsh codes for a period of time (see col. 4 lines 55-61).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention was made to implement the teaching of **PFEIL** especially sharing the Walsh codes for a period of time among a plurality of remote units in the system taught by **KIM** in order to efficiently use to the system's limited resources among the plurality of mobile stations.

Regarding claims 2 and 9, **KIM** discloses wherein codes are dynamically assigned between the at least first and second subspaces (the Walsh codes may be assigned dynamically, see col. 6 lines 13-42).

Regarding claims 3 and 10, **KIM** discloses wherein a minimum number of codes are provided to the first subspace (the Walsh codes may be assigned dynamically, see col. 6 lines 13-42).

Regarding claims 4 and 11, **KIM** discloses wherein a minimum number of codes are provided the second subspace (the Walsh codes may be assigned dynamically, see col. 6 lines 13-42).

Regarding claims 5 and 12, **KIM** discloses wherein a plurality of codes are unassigned to a subspace and are available for assignment to either subspace (the Walsh codes may be assigned dynamically, see col. 6 lines 13-42).

Regarding claim 15, **KIM** discloses wherein all of the codes in the second subspace are assigned to one user for data communication (the Walsh codes may be assigned dynamically, see col. 6 lines 13-42).

Response to Arguments

Applicant's arguments with respect to claims 1-5, 8-12 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any response to this action should be mailed to:

The following address mail to be delivered by the United States Postal Service (USPS) only:

Mail Stop _____
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

or faxed to:

(571) 273-8300, (for formal communications intended for entry)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Bob A. Phunkulh** whose telephone number is **(571) 272-3083**. The examiner can normally be reached on Monday-Thursday from 8:00 A.M. to 5:00 P.M. (first week of the bi-week) and Monday-Friday (for second week of the bi-week).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor **Chirag G. Shah**, can be reach on **(571) 272-3144**. The fax phone number for this group is **(571) 273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/BOB A PHUNKULH/
Primary Examiner, Art Unit 2477